

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SFA SYSTEMS, LLC

Plaintiff,

v.

1-800-FLOWERS.COM, INC., et al.,

Defendants.

Case No. 6:09-cv-00340-LED

JURY TRIAL DEMANDED

**OVERTON’S, INC. ANSWER, ADDITIONAL DEFENSES AND COUNTERCLAIMS
TO SFA SYSTEMS, LLC’S COMPLAINT AND DEMAND FOR JURY TRIAL**

Defendant Overton’s, Inc. (hereinafter “Overton’s”), hereby states as follows:

PARTIES

1. Overton’s is without sufficient information to form a belief as to the truth of the averments of paragraph 1 of Plaintiff’s Complaint and therefore denies them.

2. Overton’s states that paragraph 2 of Plaintiff’s Complaint is not directed to Overton’s and therefore no response is required. To the extent that a response is required of Overton’s to paragraph 2 of Plaintiff’s Complaint, Overton’s states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 2 of Plaintiff’s Complaint and therefore denies them.

3. Overton’s states that paragraph 3 of Plaintiff’s Complaint is not directed to Overton’s and therefore no response is required. To the extent that a response is required of Overton’s to paragraph 3 of Plaintiff’s Complaint, Overton’s states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 3 of Plaintiff’s Complaint and therefore denies them.

4. Overton's states that paragraph 4 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 4 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 4 of Plaintiff's Complaint and therefore denies them.

5. Overton's states that paragraph 5 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 5 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 5 of Plaintiff's Complaint and therefore denies them.

6. Overton's states that paragraph 6 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 6 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 6 of Plaintiff's Complaint and therefore denies them.

7. Overton's states that paragraph 7 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 7 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 7 of Plaintiff's Complaint and therefore denies them.

8. Overton's states that paragraph 8 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 8 of Plaintiff's Complaint, Overton's states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 8 of Plaintiff's Complaint and therefore denies them.

9. Overton's states that paragraph 9 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 9 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 9 of Plaintiff's Complaint and therefore denies them.

10. Overton's states that paragraph 10 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 10 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 10 of Plaintiff's Complaint and therefore denies them.

11. Overton's states that paragraph 11 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 11 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 11 of Plaintiff's Complaint and therefore denies them.

12. Overton's states that paragraph 12 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 12 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 12 of Plaintiff's Complaint and therefore denies them.

13. Overton's states that paragraph 13 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 13 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 13 of Plaintiff's Complaint and therefore denies them.

14. Overton's states that paragraph 14 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 14 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 14 of Plaintiff's Complaint and therefore denies them.

15. Overton's states that paragraph 15 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 15 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 15 of Plaintiff's Complaint and therefore denies them.

16. Overton's states that paragraph 16 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 16 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 16 of Plaintiff's Complaint and therefore denies them.

17. Overton's admits that it is a North Carolina corporation and that Overton's has appointed Corporation Service Company, 327 Hillsborough Street, Raleigh, North Carolina,

27603 as its registered agent in North Carolina. Overton's denies the truth of the remaining averments of paragraph 17 of Plaintiff's Complaint.

18. Overton's states that paragraph 18 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 18 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 18 of Plaintiff's Complaint and therefore denies them.

19. Overton's states that paragraph 19 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 19 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 19 of Plaintiff's Complaint and therefore denies them.

20. Overton's states that paragraph 20 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 20 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 20 of Plaintiff's Complaint and therefore denies them.

21. Overton's states that paragraph 21 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 21 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 21 of Plaintiff's Complaint and therefore denies them.

22. Overton's states that paragraph 22 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 22 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 22 of Plaintiff's Complaint and therefore denies them.

23. Overton's states that paragraph 23 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 23 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 23 of Plaintiff's Complaint and therefore denies them.

24. Overton's states that paragraph 24 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 24 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 24 of Plaintiff's Complaint and therefore denies them.

25. Overton's states that paragraph 25 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 25 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 25 of Plaintiff's Complaint and therefore denies them.

26. Overton's states that paragraph 26 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 26 of Plaintiff's Complaint, Overton's states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 26 of Plaintiff's Complaint and therefore denies them.

27. Overton's states that paragraph 27 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 27 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 27 of Plaintiff's Complaint and therefore denies them.

28. Overton's states that paragraph 28 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 28 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 28 of Plaintiff's Complaint and therefore denies them.

29. Overton's believes that paragraph 29 of Plaintiff's Complaint states legal a conclusion to which no response is required. To the extent that a response is required, Overton's states that it is without sufficient information to form a belief as to the truth of the averments of paragraph 29 of Plaintiff's Complaint and therefore denies them.

30. Overton's denies the truth of the averments of paragraph 30 of Plaintiff's Complaint.

31. Overton's denies the truth of the averments of paragraph 31 of Plaintiff's Complaint.

32. Overton's is without sufficient information to form a belief as to the truth of the averments of paragraph 32 of Plaintiff's Complaint and therefore denies them.

33. Overton's believes that paragraph 33 of Plaintiff's Complaint states legal a conclusion to which no response is required. To the extent that a response is required, Overton's states that it is without sufficient information to form a belief as to the truth of the averments of paragraph 33 of Plaintiff's Complaint and therefore denies them.

34. Overton's states that paragraph 34 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 34 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 34 of Plaintiff's Complaint and therefore denies them.

35. Overton's states that paragraph 35 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 35 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 35 of Plaintiff's Complaint and therefore denies them.

36. Overton's states that paragraph 36 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 36 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 36 of Plaintiff's Complaint and therefore denies them.

37. Overton's states that paragraph 37 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 37 of Plaintiff's Complaint, Overton's states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 37 of Plaintiff's Complaint and therefore denies them.

38. Overton's states that paragraph 38 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 38 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 38 of Plaintiff's Complaint and therefore denies them.

39. Overton's states that paragraph 39 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 39 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 39 of Plaintiff's Complaint and therefore denies them.

40. Overton's states that paragraph 40 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 40 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 40 of Plaintiff's Complaint and therefore denies them.

41. Overton's states that paragraph 41 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 41 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 41 of Plaintiff's Complaint and therefore denies them.

42. Overton's states that paragraph 42 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 42 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 42 of Plaintiff's Complaint and therefore denies them.

43. Overton's states that paragraph 43 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 43 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 43 of Plaintiff's Complaint and therefore denies them.

44. Overton's states that paragraph 44 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 44 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 44 of Plaintiff's Complaint and therefore denies them.

45. Overton's states that paragraph 45 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 45 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 45 of Plaintiff's Complaint and therefore denies them.

46. Overton's states that paragraph 46 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 46 of Plaintiff's Complaint, Overton's states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 46 of Plaintiff's Complaint and therefore denies them.

47. Overton's states that paragraph 47 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 47 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 47 of Plaintiff's Complaint and therefore denies them.

48. Overton's states that paragraph 48 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 48 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 48 of Plaintiff's Complaint and therefore denies them.

49. Overton's denies the truth of the averments of paragraph 49 of Plaintiff's Complaint.

50. Overton's states that paragraph 50 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 50 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 50 of Plaintiff's Complaint and therefore denies them.

51. Overton's states that paragraph 51 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 51 of Plaintiff's Complaint, Overton's states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 51 of Plaintiff's Complaint and therefore denies them.

52. Overton's states that paragraph 52 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 52 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 52 of Plaintiff's Complaint and therefore denies them.

53. Overton's states that paragraph 53 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 53 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 53 of Plaintiff's Complaint and therefore denies them.

54. Overton's states that paragraph 54 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 54 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 54 of Plaintiff's Complaint and therefore denies them.

55. Overton's states that paragraph 55 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 55 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 55 of Plaintiff's Complaint and therefore denies them.

56. Overton's states that paragraph 56 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 56 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 56 of Plaintiff's Complaint and therefore denies them.

57. Overton's states that paragraph 57 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 57 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 57 of Plaintiff's Complaint and therefore denies them.

58. Overton's states that paragraph 58 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 58 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 58 of Plaintiff's Complaint and therefore denies them.

59. Overton's states that paragraph 59 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 59 of Plaintiff's Complaint, Overton's states that it is without sufficient information to form a belief as to the truth of the averments in paragraph 59 of Plaintiff's Complaint and therefore denies them.

60. Overton's states that paragraph 60 of Plaintiff's Complaint is not directed to Overton's and therefore no response is required. To the extent that a response is required of Overton's to paragraph 60 of Plaintiff's Complaint, Overton's states that it is without sufficient

information to form a belief as to the truth of the averments in paragraph 60 of Plaintiff's Complaint and therefore denies them.

61. Overton's believes that paragraph 61 of Plaintiff's Complaint states an unsound conclusion to which no response is required. To the extent that a response is required, Overton's states that it is without sufficient information to form a belief as to the truth of the averments of paragraph 61 of Plaintiff's Complaint and therefore denies same.

62. Overton's denies the truth of the averments of paragraph 62 of Plaintiff's Complaint.

63. Overton's denies the truth of the averments of paragraph 63 of Plaintiff's Complaint.

64. Overton's denies the truth of the averments of paragraph 64 of Plaintiff's Complaint.

ADDITIONAL DEFENSES

1. This Court lacks personal jurisdiction over Overton's.
2. Venue is improper in this Court.
3. Each count of Plaintiff's Complaint fails to state a claim upon which relief may be granted.
4. Overton's does not make, use, sell, or offer for sale in the United States or import into the United States any products that infringe the patent in suit.
5. Upon information and belief, Plaintiff's claims are barred by the doctrine of laches.
6. Upon information and belief, Plaintiff has failed to join a party under Rule 19.

7. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §101.

8. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §102.

9. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §103.

10. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §112, first paragraph.

11. Upon information and belief, the claims of the patent in suit are invalid pursuant to 35 U.S.C. §112, second paragraph.

12. Overton's has not infringed Plaintiff's patent.

13. Overton's has not willfully infringed Plaintiff's patent.

14. Overton's has not induced any infringement of Plaintiff's patent.

15. Overton's has not contributed to any infringement of Plaintiff's patent.

16. Plaintiff is not entitled to relief under 35 U.S.C. § 284.

17. Plaintiff is not entitled to relief under 35 U.S.C. § 285.

18. Plaintiff is not entitled to an award of restitution.

COUNTERCLAIMS

Overton's Inc. (hereinafter "Overton's"), files this counterclaim against SFA Systems, LLC (hereinafter "SFA").

THE PARTIES

1. Overton's is a North Carolina corporation with its principal office at 111 Red Banks Rd, Greenville, North Carolina 27858.

2. In its Complaint, SFA alleges infringement by Overton's of U.S. Patent 6,067,525 ("the '525 patent").

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this counterclaim pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 1331, and under 35 U.S.C. § 1338(a). By virtue of the Complaint filed in this Action, there is an actual justiciable controversy between Overton's and SFA Systems, LLC concerning the non-infringement and invalidity of the '525 patent.

4. SFA is subject to personal jurisdiction in this judicial district because they filed this action in this district and these counterclaims directly relate to the underlying claims asserted by SFA.

COUNT I

NONINFRINGEMENT AND INVALIDITY OF THE '525 PATENT

5. Overton's realleges and incorporates herein by reference all of the allegations contained in Paragraphs 1-4 of these counterclaims.

6. Overton's has not and does not infringe any claim of the '525 patent.

7. Overton's has not induced any infringement of the '525 patent.

8. Overton's has not contributed to any infringement of the '525 patent.

9. Upon information and belief, the claims of the '525 patent are invalid.

PRAYER FOR RELIEF

WHEREFORE, Overton's, Inc. requests that this Court:

1. Adjudge that SFA Systems, LLC take nothing by reason of its Complaint;

2. Enter judgment in favor of Overton's, Inc. and against SFA Systems, LLC on all claims for relief contained in SFA Systems, LLC's Complaint;
3. Enter judgment that Overton's, Inc. does not infringe SFA Systems, LLC's patent under 35 U.S.C. § 271;
4. Enter judgment that SFA Systems, LLC's patent is invalid;
5. Adjudge that Overton's, Inc. be awarded its attorneys' fees and costs of suit incurred in defense against SFA Systems, LLC's Complaint; and,
6. Award Overton's, Inc. any other relief the Court deems just and proper.

JURY DEMAND

Overton's, Inc. demands a jury trial on all issues so triable.

Respectfully submitted,

*/s/ Dean L. Franklin by Trey Yarbrough
(with permission)*

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Attorneys for Defendant Overton's, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 23rd day of September, 2009. All other counsel not deemed to have consented to service in such manner will be served via facsimile transmission and/or first class mail.

/s/ Trey Yarbrough
Trey Yarbrough